THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.20431 OF 2005

DATED 16.09.2005

BETWEEN

H.Devaki W/o H.Ekambaram, R/o15-14-90,

Sowakarpat, Chittoor, Chittoor District.

…PETITIONER

AND

Election Commissioner, State of A.P.,

3rd Floor, Budhabhavan, M.G.Road, Secunderabad

and others.

…RESPONDENTS

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.20431 OF 2005

ORDER:

The petitioner is resident of Chittoor. On the eve of Municipal Elections, 2005, she filed her nomination for ward No.20, which is reserved for Women (BC). She claimed that she belongs to Palli Reddy community. However, on the date of scrutiny, the Election Officer, second respondent herein, rejected the nomination based on the communication dated 03.09.2005 of the Mandal Revenue Officer, Chittoor, in which it came to light that the petitioner's husband belongs to Mudaliar community and therefore the petitioner cannot be treated as backward class community. This order is assailed in the writ petition.

The learned counsel for the petitioner, Sri Meher Chand Noori, has taken this Court through relevant rules of
A.P. Municipalities (Conduct of Election of Members) Rules, 2005 (for short, the Rules) in support of the contention that the Election Officer has committed gross illegalities and contravened the Rules in rejecting the nomination of the petitioner, that as required under proviso to Rule 12(3) of the Rules, the petitioner was not given time till next day to answer the objection and that when statutory violations are made, a writ petition would be maintainable. The writ petition is opposed by the learned standing counsel placing reliance on Article 243ZG of Constitution of India as not maintainable.

In **V.Narayana v. Election Officer, Alwal Municipality** (**Narayana**, for brevity), this Court held that when a nomination is rejected, a writ petition would not lie. It was held therein that challenge to election means and includes a challenge to any intermediary stage in the election and that when the nomination is rejected or accepted improperly, the same has to be agitated by way of Election Petition. The decision in **Narayana** was followed by two Full Benches of this Court in **A.P.Sarpanchas Association v Government of A.P.** and **G.Kanaka Durga v State Election Commissioner**. Further in **C.Subrahmanyam v K.Ramanjaneyulu**, the Supreme Court held that even if the election is challenged on the ground of non-compliance of the provisions of the A.P. Panchayat Raj Act, 1994 or Conduct of Election Rules, 1961, the writ petition would not be maintainable and it is only by way of Election Petition that such thing can be challenged. In view of the settled position, this writ petition is not maintainable.

The writ petition is accordingly dismissed. Liberty is given to the petitioner to file election petition after declaration of results, in which event Election Tribunal shall dispose of the election petition within six months therefrom. The question of social status of the petitioner is left open to be decided in the Election Petition by the Election Tribunal.

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(V.V.S.RAO,J)

16.09.2005.

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Note: Send operative portion by wire

at party’s cost on 19.09.2005.

(By Order)

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